

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(EASTERN DIVISION)

In re:

PERMA COAT OF NEW ENGLAND,
INC.,

Debtor.

Chapter 7
Case No. 07-10922-JNF

TRUSTEE'S OBJECTION TO CLAIM 8
(Re: Coleen M. McCarty)

To the Honorable Joan N. Feeney, United States Bankruptcy Judge:

NOW COMES Donald R. Lassman, the Chapter 7 trustee (the "Trustee") for the bankruptcy estate (the "Estate") of Perma Coat of New England, Inc. (the "Debtor"), and, pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and MLBR 3007-1, hereby objects to Claim 8 (the "Claim") filed by Coleen M. McCarty (the "Claimant") as set forth below. In support hereof, the Trustee states as follows:

FACTUAL BACKGROUND

1. On February 16, 2007 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code").

2. On February 19, 2007, the United States Trustee appointed Donald R. Lassman to serve as Chapter 7 trustee of the Estate and he continues to serve as such.

3. This Court set June 13, 2007 (the "Bar Date") as the date by which certain of the creditors asserting claims against the Debtor, including the Claimant, must file proofs of claim. The Bar Date has passed.

Joan N. Feeney

4. The Trustee has reviewed the claims register prepared by the Clerk's office for the Debtor's case and completed a review of claims timely filed with the Court.

5. The Trustee has determined that the Claim is objectionable, as set forth herein.

OBJECTION

6. The Claimant filed an unsecured non-priority claim in the amount of \$9,500.00 (i.e., the Claim). The basis for the Claim is "non-performance of contract."

7. Neither the Claim nor the Claimant appears on the Debtor's Schedules.

8. Prior to the Petition Date, the Debtor was a contractor that specialized in permanent exterior painting of residential and commercial buildings. As demonstrated by the supporting documentation included with the Claim (the "Contract"), the Claimant engaged the Debtor to perform such work on the exterior of her home.

9. The Claim represents the full amount that the Debtor charged to the Claimant and that the Claimant paid, in connection with the work that the Debtor performed on the exterior of the Claimant's home. However, the Debtor provided some, if not all, of the goods and services required under the Contract. The documentation that the Claimant provided in support of her Claim is insufficient to establish that no such goods were sold or that no such work was performed.

10. Accordingly, the Trustee hereby requests that this Court disallow the Claim in its entirety.

CLAIM RESOLUTION PROCEDURE

11. After reviewing the within objection, the Claimant may contact the Trustee to attempt to resolve the Claim.

12. Any parties seeking to contact the Trustee in connection with the within objection may contact Gina M. Barbieri, Mirick, O'Connell, DeMallie & Lougee, LLP, 1700 West Park Drive, Westborough, Massachusetts 01581-3941, (508) 898-1501.

RESERVATION OF RIGHTS

13. The Trustee reserves the right to file additional claim objections as he determines necessary. In addition, the Trustee reserves his right to expand the basis of her objection to the claims identified herein.

WHEREFORE, the Trustee respectfully requests that the Court enter an Order:

- a. Sustaining the Trustee's objection in full; and
- b. Granting the Trustee such other and further relief as is just.

Respectfully submitted,

DONALD R. LASSMAN,
CHAPTER 7 TRUSTEE

By his counsel,

/s/ Gina M. Barbieri

Joseph H. Baldiga, BBO #549963
Christine E. Devine, BBO #566990
Gina M. Barbieri, BBO # 670596
Mirick, O'Connell, DeMallie & Lougee, LLP
1700 West Park Drive
Westborough, MA 01581-3491
Phone: (508) 898-1501
Fax: (508) 898-1502
Email: bankrupt@mirickoconnell.com
jbaldiga@mirickoconnell.com
cdevine@mirickoconnell.com
gbarbieri@mirickoconnell.com

Dated: July 16, 2009

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**PERMA COAT OF NEW ENGLAND,
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**Chapter 7
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ORDER SUSTAINING TRUSTEE'S OBJECTION TO CLAIM 8
(Re: Coleen M. McCarty)

Upon the Objection to Claim 8 (the "Objection") dated July 16, 2009 filed by Donald R. Lassman, Chapter 7 trustee (the "Trustee"); notice having been sufficient, no objections having been filed, or any such objections having been overruled or withdrawn as appropriate, it is hereby ORDERED that Claim 8 is disallowed in its entirety.

Dated: _____, 2009

Honorable Joan N. Feeney
United States Bankruptcy Judge